

Exhibit 3

1 UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF VIRGINIA
3 CASE NO.: 2:18cv530
4

5 CSX TRANSPORTATION, INC.,
6 individually and on behalf of
7 NORFOLK & PORTSMOUTH BELT LINE
8 RAILROAD COMPANY,

9 Plaintiff,

10 vs.

11 NORFOLK SOUTHERN RAILWAY
12 COMPANY, et al.,

13 Defendants.
14
15 _____/

16 TRANSCRIPT DESIGNATED UNDER PROTECTIVE ORDER
17 VIDEOTAPED DEPOSITION OF
18 ANTHONY DIDEO
19 Monday, December 14, 2020
20 9:32 a.m. - 4:40 p.m.
21 Remote Proceedings

22 Job No. CS4338572
23

24 Stenographically Reported By:
25 Gina Rodriguez, RPR, CRR, CCP

1 A. I don't know if Ms. Rice would have been
2 involved in that, although she could have. She
3 originally came out of the finance group, and she
4 worked in finance previously and she worked in
5 intermodal previously so was pretty familiar. But I
6 don't know -- again, I don't know who did the
7 specific analysis.

8 Q. And did you refer to or review NPBL's 2016
9 annual report before signing and sending this letter?

10 A. I did not.

11 Q. Okay. All right. I'm going to ask you a
12 couple more questions, and we're going to take a
13 break.

14 The next paragraph reads: "The following
15 is a proposal of terms which can serve as the
16 foundation for a definitive rail transportation
17 agreement."

18 By "definitive rail transportation
19 agreement," is that the type of private contract
20 we've been discussing here today?

21 A. Well, I think it would be -- reach an
22 agreement to moving this. You know, whether or not
23 they decided to constrain that just through CSX, I
24 don't know, but I mean, it wouldn't necessarily have
25 to be private. It kind of depends on where they --

1 where they are with this. I don't know that there's
2 other, you know, intermodal customers there that
3 they're providing switching for, so . . .

4 Q. Yeah, but it necessarily has to be private
5 with CSXT, right, this proposal, correct?

6 MR. HATCH: Objection. Asked and answered,
7 argumentative.

8 A. There's -- the rate itself doesn't have to
9 be only with CSX. I mean, if there's components to
10 this contract like, you know, minimums and things
11 like that where we would pay a shortfall fee, yeah,
12 that would probably be specifically with CSX.
13 But . . .

14 BY MR. LACY:

15 Q. And that's -- that's what your proposal
16 includes and relies on is this -- among other things,
17 this minimum guarantee, correct?

18 A. Well, there is a minimum guarantee in
19 there, and that's what I'm saying. That would be
20 something obviously that would be specifically
21 between NPBL and CSX, but there's nothing that would
22 prevent NPBL from offering a similar rate to anybody
23 else. Any other record.

24 Q. Well, are you aware of any constraints and
25 the organizational documents of the beltline that

1 would prohibit it from doing exactly what you just
2 suggested?

3 A. I don't know the guidelines and the rules
4 and the governing documents.

5 Q. Okay. But when you referred to a
6 definitive rail transportation agreement, you were
7 referring to an agreement that is signed, on the one
8 hand, by CSX and, on the other, by the beltline,
9 correct?

10 A. Right, but the terms that are in there
11 don't necessarily have to just be restricted to us.

12 Q. But that's what a contract is, is a
13 contract between two parties, right?

14 MR. HATCH: Objection, asked and answered.

15 A. Again, what I'm saying is there's
16 components in there that would only make sense if
17 applied to the two of us. There's other components
18 in there that there's no reason why they would have
19 to just be restricted to CSXT. So . . .

20 BY MR. LACY:

21 Q. But your proposal relied on the beltline
22 and CSXT agreeing on all components outlined in your
23 proposal, correct?

24 A. Yeah, we would reach agreement on all
25 things. But whether or not those items are